

**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

SHAN D. PRATHER,

Plaintiff,

v.

JODIE L. GAGE, et al.,

Defendants.

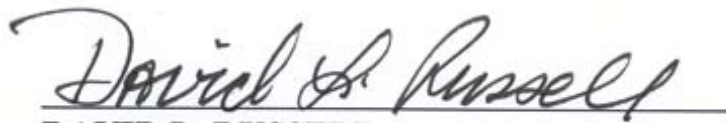
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Case No. CIV-12-953-R

ORDER

Before the Court is the Report and Recommendation of United States Magistrate Judge Bana Roberts entered September 26, 2012 [Doc. No. 6]. Also before the Court is Plaintiff's untimely motion for leave to proceed *in forma pauperis* [Doc. No. 7]. Plaintiff has not filed an Objection to the Report and Recommendation nor has he sought or been granted an extension of time in which to object. Therefore, the Report and Recommendation of the Magistrate Judge is ADOPTED. Even if the Court were to grant Plaintiff's motion for leave to proceed *in forma pauperis*, Plaintiff's Complaint would still have to be dismissed pursuant to 28 U.S.C. § § 1915(e)(2) and 1915A(b) because it is frivolous and lacks an arguable legal basis under 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § § 1915(e)(2) and 1915A(b), Plaintiff's Complaint is DISMISSED without prejudice and Plaintiff's motion for leave to proceed *in forma pauperis* is DENIED as moot.

IT IS SO ORDERED this 17th day of October, 2012.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE